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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/167,705	10/06/1998	ANN MARIE SCHMIDT	55873JPWJML	1656

7590

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EXAMINER

ANDRES, JANET L

ART UNIT

PAPER NUMBER

1646

DATE MAILED: 04/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/167,705

Applicant(s)

SCHMIDT ET AL.

Examiner

Janet L. Andres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-53 and 55-72 is/are pending in the application.
- 4a) Of the above claim(s) 10-46, 53 and 69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47, 50, 55-68, 70-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **RESPONSE TO AMENDMENT**

1. Applicant's amendment filed 7 March 2002 is acknowledged. Upon further consideration, the finality of the previous office action is withdrawn. It is noted that a Notice of Appeal and Appeal Brief have been filed. Applicant can request a refund for the associated fees or leave it as credit for future appeals. Claims 10-47, 50, and 55-72 are pending on entry of the amendment; claims 47, 50, 55-68, and 70-72 are under consideration. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action.

#### ***Claim Rejections/Objections Withdrawn***

2. The objection to the specification is withdrawn in response to Applicant's arguments.
3. The objection to claim 50 is withdrawn in response to Applicant's amendment.
4. The rejection of claims 47, 50, 55-68, and 70-72 under 35 U.S.C. 112, first paragraph, as lacking enablement and written description is withdrawn in response to Applicant's arguments and submitted references.

#### ***Claim Rejections Maintained/New Grounds of Rejection***

5. The rejection of claims 47, 50, and 55-68 under 35 U.S.C. 103(a) is maintained and newly applied to claims 70-72.

Applicant argues that Morser et al., Hori et al., and Ritthaler et al. do not teach specific treatment of inflammation. Applicant argues that there is thus no support for the assertion that there is sufficient motivation to use sRAGE or anti-RAGE antibodies to inhibit inflammation.

Applicant's arguments have been fully considered but have not been found to be persuasive. As stated in the office action of paper no. 17, Morser et al. teaches in column 4 that the presence of AGE results in local, chronic inflammation. Morser et al. further teaches

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inhibition of AGE/RAGE interactions and teaches the use of sRAGE polypeptides and antibodies for this purpose. In addition, as was not noted in previous office actions, Morser et al. teaches biologically active fragments of sRAGE in column 6, lines 1-5. Further, as stated in the office action of paper no. 15, both Ritthaler et al. and Hori et al. teach that RAGE is involved in inflammation. Thus, one of ordinary skill, on considering the teachings of Morser et al., Ritthaler et al., and Hori et al., would know that RAGE is involved in inflammation and that antibodies, sRAGE, and fragments of sRAGE can be used therapeutically. It would thus have been *prima facie* obvious to one of ordinary skill to use the antibodies and polypeptides of Morser et al. to inhibit inflammation. One of ordinary skill would have been motivated to do so because each of these references teaches that RAGE interactions cause inflammation, and because Morser et al. specifically teaches therapeutic uses of inhibition of RAGE interactions with its ligands by such antibodies and polypeptides. Thus one of ordinary skill would expect to be able to treat inflammation successfully by inhibiting RAGE.

NO CLAIM IS ALLOWED.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Andres, Ph.D., whose telephone number is (703) 305-0557. The examiner can normally be reached on Monday through Friday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, Ph.D., can be reached at (703) 308-6564. The fax phone number for this group is (703) 872-9306 or (703) 872-9307 for after final communications.


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Communications via internet mail regarding this application, other than those under U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [yvonne.eyler@uspto.gov].

All Internet email communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Janet Andres, Ph.D.  
March 28, 2002

  
YVONNE EYLER, PH.D.  
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